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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,437	11/16/2000	Lynn Watson	5087-21	5708

20575 7590 09/07/2006

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EXAMINER

STEVENS, THOMAS H

ART UNIT PAPER NUMBER

2123

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/715,437

Applicant(s)

WATSON ET AL.

Examiner

Thomas H. Stevens

Art Unit

2123

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

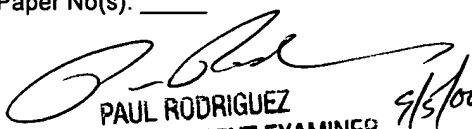
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-7 and 10-17.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: The new matter and the 112 1st rejections are withdrawn.


PAUL RODRIGUEZ
SUPERVISORY PATENT EXAMINER
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9/5/06

Continuation of 11. does NOT place the application in condition for allowance because: the arguments are non-persuasive in view of the prior art.

Regarding applicants' response to the Office's statement of applicants "reading the specification into the claims", applicants assert that the claim requires the emulation to emulate an operating system to which the Examiner disagrees. The claim recites each emulator containing instructions to emulate a particular operating environment having a particular operating system. Therefore, the operating system is not emulated, the operating environment is emulated. The Examiner points to the Chrys reference which teaches an operating system (column 4, lines 11-12) as well as a particular operating system (Windows, column 2, line 52).

Regarding the statement to Chrys, that "there's no emulation of an operating system" is non-persuasive because the claims don't require emulation of an operating system. The claim does not "emulate a particular operating environment" and "stores a data file containing elements necessary to execute an emulated operating system" nor performing emulation of an operating system.

Applicants' statement that "the IEEE-1394 bus protocols have the same external interface regardless of the operating system" is non-persuasive since the claims are silent to this level of detail.

Applicants' state "there's no discussion of emulation of other operating systems" which is also non-persuasive since the claims are, verbatim, silent to "emulation of other operating systems."

Applicants' state that the Chrys reference does not define a "general purpose operating system, which is "an operating system that can run more than one operating system such as Unix, or Windows" (see column 2, line 52 of Chrys, "Windows"). To add, applicants state there's no mention of "multiple operating systems" to which the claims are, verbatim, silent on this limitation.

Furthermore, applicants argue that the combination of references teaches emulations of devices, not operating systems (pg. 9, lines 4-5). This argument is non-persuasive since the combination of references was to anticipate every claim limitations disclosed (See MPEP 2143.03). Furthermore, applicants admitted that the Chrys reference does teach "addresses emulation of devices".

The Office interpreted the claims (e.g., claim 1) as memory, incasing emulators and data files, that are somehow connected to cables and wireless links. These claims were searched based on the exact language, thus applicants need to review the limitations to further clarify the invention.